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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/659,502	09/11/2000	Monica R. Nassif	497.001US1	4893

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EXAMINER

WELLS, LAUREN Q

ART UNIT	PAPER NUMBER
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1617

DATE MAILED: 12/17/2002

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/659,502

Applicant(s)

NASSIF ET AL.

Examiner

Lauren Q Wells

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 September 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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DETAILED ACTION

Claims 1-26 are pending. The Amendment filed 2/19/02, amended claims 1, 3, 9-13, 21-22 and added claim 26.

The Appeal Brief filed 9/19/02, Paper No. 11, has been received. However, the final action mailed 4/22/02, Paper No. 7, is withdrawn, as the result of a typographical error, wherein claims 1-21 and newly added claim 22 was rejected under 35 USC 103, when claims 1-25 and newly added claim 26 should have been rejected.

Response to Applicant's Arguments/Amendment

The Applicant's arguments filed February 19, 2002 (Paper No. 6) to the rejection of claims 1-25 made by the Examiner under 35 USC 102 (e) over Ferguson et al., 103(a) over Ferguson et al. as the primary reference, and 112, first paragraph have been fully considered and deemed not persuasive.

The Applicant's amendment to the claims filed February 19, 2002 (Paper No. 6) is sufficient to over the rejections under 35 USC 102(e) over Cheung, 103(a) over Cheung as the primary reference, and some 112 second paragraph rejections in the Previous Office Action (see below for 112 second paragraph rejections that are maintained).

112 Rejection Maintained

The rejection of claims 9-13 and 25 under 35 U.S.C. 112, 1st paragraph, is MAINTAINED for the reasons set forth in the Office Action mailed August 29, 2001, Paper No. 6, and those found below.

Applicant argues "Accompanying this Amendment are the following articles showing common knowledge in the art of "petuli oil". This argument is not persuasive, as no accompanying articles have been filed with Applicant's Amendment.

112 Rejection Maintained

The rejection of claims 1, 21 and newly added claim 26 under 35 U.S.C. 112, 2nd paragraph, is MAINTAINED for the reasons set forth in the Office Action mailed August 29, 2001, Paper No. 6, and those found below.

i) The rejection of claims 1 and 21 and newly added claim 26 over the phrase "ambient environment" is maintained. The Examiner respectfully notes that there is no definition of this phrase on page 21, lines 13-18 of the specification.

ii) The phrase "to effect aromatherapy on persons or animals" in claim 1 (line 8) and 26 (line 8) is still vague and indefinite. It is still not clear how aromatherapy is effected on persons or animals.

102 Rejection Maintained

The rejection of claims 1-21 under 35 U.S.C. 102(e) as being unpatentable over Ferguson et al. (6,045,813) is MAINTAINED for the reasons set forth in the Office Action mailed August 29, 2001, Paper No. 4, and those found below.

Applicant argues "There is no direct application of the liquid composition to the surface. . . The present amendment of "directly" applying the liquid is sufficient to exclude the compositions of Ferguson et al.". This argument is not persuasive. Col. 12, lines 44-59 of Ferguson et al. disclose a method of treating a surface, wherein a composition comprising a carrier liquid and beads is dispensed through a pump onto a surface, and the beads are fractured

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as they are dispensed or as they are used on the surface, spilling their contents. Since the beads contain the essential oil and since the beads are fractured as they are dispensed, the essential oils come in direct contact with the surface.

103 Rejection Maintained

The rejection of claims 1-25 and newly added claim 26 under 35 U.S.C. 103(a) as being unpatentable over Ferguson et al. in view of Bonett (6,127,330) in further view of Orson (5,081,104) and Bajgrowicz (6,239,314) is MAINTAINED for the reasons set forth in the Office Action mailed August 29, 2001, Paper No. 4, and those found below.

Ferguson et al. teach lotions and gels with active ingredients in beads. The composition is disclosed for use as a skin care product and a household cleanser. The composition is disclosed as comprising essential oils or antibacterial agents as active ingredients and water and alcohol, wherein the essential oils comprise 0.5-3% of the composition, chamomille extract is disclosed as an essential oil, and compositions are exemplified comprises water and alcohols as the only two liquid solvents. Thus, both Applicant and Ferguson et al. disclose liquid cleaning compositions that are applied to hard surfaces, wherein the composition comprises aromatherapeutic essential oils and wherein aromatherapy is provided to persons within the ambient environment of the cleaned hard surface. See Col. 1, line 5-Col. 2, line 65; Col. 8, line 57-Col. 12, line 64. The reference fails to teach kits, mint oil, citrus oil, and ylang ylang oil (see above discussion).

Bonett teaches compositions and processes for bleaching surfaces. It is disclosed that the composition of the invention can be stored in any appropriate containers known in the art, such

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as two-compartment kits. See abstract; Col. 1, line 10-Col. 2, line 14; Col. 3, line 15-Col. 4, line 8.

Orson teaches a fragrance dispensing composition. Disclosed is a composition wherein the fragrance can be chosen from mint and citrus oil. It is disclosed that this composition can be used as a combination hard surface cleaning and air freshening product. See Col. 2, line 55-Col. 8, line 42.

Bajgrowicz et al. teach odorants. It is disclosed that the compounds of the invention can be combined with lavender oil, rose oil, ylang ylang oil, and alcohols, and that the composition can be formulated as toilet water, scented water, perfume, or household cleaner. See Col. 6, line 1-Col. 7, line 40.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the invention of Ferguson et al. by adding the kit of Bonett and obtain a kit comprising different household products for effecting aromatherapy because a) Ferguson et al., and Bonett both teach household cleaning compositions for use on hard surfaces; b) Bonett teaches that conventional additives, such as fragrances, can be added to his composition; c) Bonett teaches that storing cleansing compositions in containers, such as kits, is well known in the art and beneficial for storage.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the composition of the Ferguson by adding the citrus and mint oil of Orson or the ylang ylang oil of Bajgrowicz et al. and obtain a composition comprising citrus and mint oil or a composition comprising ylang ylang oil because a) Ferguson et al., Orson, and Bajgrowicz et al. all teach fragrant cleansing compositions comprising essential oils; thus,

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substituting one essential oil for another for the same cleansing purpose would be within the skill of one in the art.

Applicant argues "Bonett teaches a single composition that may be separated into two components, and then the components mixed to form a single active composition. This is not a kit with distinct and "separate" active solutions that are complete in themselves". This argument is not persuasive. Bonett is relied upon for what he teaches those of ordinary skill in the art. Bonett teaches that kits comprising multiple compartments for different cleaning solutions are known in the art. Hence, it would be within the skill of one in the art to teach kits comprising multiple compartments of different cleaning solutions.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1 and 26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

i) The phrase "household function selected from the group consisting of surface cleaning, ...and iron aids" in claims 1 (lines 3-5) and 26 (lines 2-4) is vague and indefinite, as it is confusing. How are moisturizing, dish soaps, and ironing liquids household functions? How is cleansing different from surface cleaning, surface shining, degreasing and foreign matter removal? Is Applicant claiming a range within a range?

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Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lauren Q Wells whose telephone number is (703) 305-1878. The examiner can normally be reached on M-F (7-5:30), with alternate Mondays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sreeni Padmanabhan can be reached on (703)305-1877. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular communications and (703) 872-9307 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1234.


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lqw

November 26, 2002



SREENI PADMANABHAN
PRIMARY EXAMINER

12/8/02